



Attorney's Docket No. 627-311CTRO

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Caldwell et al.

Serial No.: 09/522,117

Filed: March 9, 2000

For: **COMPOUNDS CAPABLE OF ACTIVATING CHOLINERGIC RECEPTORS**

Group Art Unit: 1624

Examiner: V. Balasubramanian

Date: October 23, 2001

BOX RCE

Commissioner for Patents

Washington, DC 20231

**BEST AVAILABLE COPY**

AMENDMENT

Sir:

This Amendment, which is responsive to the Office Action (the Action) mailed May 21, 2001, is submitted with a Request for Continued Examination.

**REMARKS**

This Amendment is responsive to the Action mailed May 21, 2001. Claims 21-27 are currently pending.

The Action maintains the rejection of Claims 21-27 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,861,423 to Caldwell et al. (the '423 patent). Applicants respectfully traverse this rejection.

For at least all of the reasons set forth in Applicants response filed February 28, 2001, Applicants maintain their position that the Patent Office has failed to establish a *prima facie* case of obviousness. However, in order to expedite prosecution and without admitting the establishment of a *prima facie* case of obviousness, Applicants submit herewith a Rule 1.132 Declaration of Dr. William S. Caldwell. In general, the Declaration of Dr. Caldwell presents comparative data illustrating that the compounds of the claimed invention show unexpected results over the compounds proposed in the '423 patent. In view of these unexpected results, Applicants respectfully submit that the claimed compounds are patentable over the '423 patent and request that the § 103 rejection be withdrawn.

Claims 21-27 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of copending